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106TH CONGRESS
1ST SESSION

H. R. 739

To amend the Internal Revenue Code of 1986 to enhance the portability of retirement benefits, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 11, 1999

Mr. POMEROY (for himself, Mr. KOLBE, Mr. STENHOLM, Mrs. JOHNSON of Connecticut, Mr. SMITH of Washington, Mr. SHAYS, Ms. DELAURO, and Mr. GEJDENSON) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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A BILL

To amend the Internal Revenue Code of 1986 to enhance the portability of retirement benefits, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE.

(a) SHORT TITLE.—This Act may be cited as the "Retirement Account Portability Act of 1999".

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment

to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

SEC. 2. ROLLOVERS ALLOWED AMONG VARIOUS TYPES OF PLANS.

(a) ROLLOVERS FROM AND TO SECTION 457 PLANS.—

(1) ROLLOVERS FROM SECTION 457 PLANS.—

(A) IN GENERAL.—Section 457(e) (relating to other definitions and special rules) is amended by adding at the end the following:

"(16) ROLLOVER AMOUNTS.—

"(A) GENERAL RULE.—In the case of an eligible deferred compensation plan, if—

"(i) any portion of the balance to the credit of an employee in such plan is paid to such employee in an eligible rollover distribution (within the meaning of section 402(c)(4)),

"(ii) the employee transfers any portion of the property such employee receives in such distribution to an eligible retirement plan described in section 402(c)(8)(B), and

"(iii) in the case of a distribution of property other than money, the amount so transferred consists of the property distributed,

then such distribution (to the extent so transferred) shall not be includible in gross income for the taxable year in which paid.

"(B) CERTAIN RULES MADE APPLICABLE.—Rules similar to the rules of paragraphs (2) through (7) and (9) of section 402(c) and section 402(f) shall apply for purposes of subparagraph (A).

"(C) REPORTING.—Rollovers under this paragraph shall be reported to the Secretary in the same manner as rollovers from qualified retirement plans (as defined in section 4974(c))."

(B) DEFERRAL LIMIT DETERMINED WITHOUT REGARD TO ROLLOVER AMOUNTS.—Section 457(b)(2) (defining eligible deferred compensation plan) is amended by inserting "(other than rollover amounts)" after "taxable year".

(2) ROLLOVERS TO SECTION 457 PLANS.—

(A) Section 402(c)(8)(B) (defining eligible retirement plan) is amended by striking "and" at the end of clause (iii), by striking the period

at the end of clause (iv) and inserting ", and", and by adding at the end the following:

"(v) an eligible deferred compensation plan described in section 457(b) of an eligible employer described in section 457(e)(1)(A)."

(B) Paragraph (9) of section 402(c) is amended by striking "except that" and all that follows and inserting "except that only an account or annuity described in clause (i) or (ii) of paragraph (8)(B) shall be treated as an eligible retirement plan with respect to such distribution."

(C) Subsection (a) of section 457 (relating to year of inclusion in gross income) is amended by striking "or otherwise made available".

(b) ALLOWANCE OF ROLLOVERS FROM AND TO 403(b) PLANS.—

(1) ROLLOVERS FROM SECTION 403(b) PLANS.—Section 403(b)(8)(A)(ii) (relating to rollover amounts) is amended by striking "such distribution" and all that follows and inserting "such distribution to an eligible retirement plan described in section 402(c)(8)(B), and".

(2) ROLLOVERS TO SECTION 403(b) PLANS.—Section 402(c)(8)(B) (defining eligible retirement plan), as amended by subsection (a), is amended by striking "and" at the end of clause (iv), by striking the period at the end of clause (v) and inserting ", and", and by adding at the end the following:

"(vi) an annuity contract described in section 403(b)."

(c) EXPANDED EXPLANATION TO RECIPIENTS OF ROLLOVER DISTRIBUTIONS.—Paragraph (1) of section 402(f) (relating to written explanation to recipients of distributions eligible for rollover treatment) is amended by striking "and" at the end of subparagraph (C), by striking the period at the end of subparagraph (D) and inserting ", and", and by adding at the end the following new subparagraph:

"(E) of the provisions under which distributions from the eligible retirement plan receiving the distribution may be subject to restrictions and tax consequences which are different from those applicable to distributions from the plan making such distribution."

(d) CONFORMING AMENDMENTS.—

(1) Section 72(o)(4) is amended by striking "and 408(d)(3)" and inserting "403(b)(8), 408(d)(3), and 457(e)(16)".

(2) Section 219(d)(2) is amended by striking "or 408(d)(3)" and inserting "408(d)(3), or 457(e)(16)".

(3) Section 401(a)(31)(B) is amended by striking "and 403(a)(4)" and inserting ", 403(a)(4), 403(b)(8), and 457(e)(16)".

(4) Subparagraph (B) of section 403(b)(8) is amended by inserting "and (9)" after "through (7)".

(5) Section 408(a)(1) is amended by striking "or 403(b)(8)" and inserting ", 403(b)(8), or 457(e)(16)".

(6) Subparagraphs (A) and (B) of section 415(b)(2) are each amended by striking "and 408(d)(3)" and inserting "403(b)(8), 408(d)(3), and 457(e)(16)".

(7) Section 415(c)(2) is amended by striking "and 408(d)(3)" and inserting "408(d)(3), and 457(e)(16)".

(8) Section 4973(b)(1)(A) is amended by striking "or 408(d)(3)" and inserting "408(d)(3), or 457(e)(16)".

(e) EFFECTIVE DATE; SPECIAL RULE.—

(1) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions after December 31, 1998.

(2) SPECIAL RULE.—Notwithstanding any other provision of law, subsections (h)(3) and (h)(5) of section 1122 of the Tax Reform Act of 1986 shall not apply to any distribution from an eligible retirement plan (as defined in clause (iii) or (iv) of section 402(c)(8)(B) of the Internal Revenue Code of 1986) on behalf of an individual if there was a rollover to such plan on behalf of such individual which is permitted solely by reason of any amendment made by this section.

SEC. 3. ROLLOVERS OF IRAS INTO WORKPLACE RETIREMENT PLANS.

(a) IN GENERAL.—Subparagraph (A) of section 408(d)(3) (relating to rollover amounts) is amended by striking "or" at the end of clause (ii), by striking the period at the end of clause (iii) and inserting a semicolon, and by adding at the end the following:

"(iv)(I) the entire amount received (including money and other property) represents the entire interest in the account or the entire value of the annuity,

"(II) no amount in the account and no part of the value of the annuity is attributable to any source other than a rollover contribution from an eligible retirement plan and any earnings on such rollover, and

"(III) such entire amount received is paid into an eligible retirement plan (for the benefit of such individual) not later than the 60th day after he receives the payment or distribution; or

"(v) the entire amount received (including money and any other property) is paid into an eligible retirement plan for the benefit of such individual not later than the 60th day after the date on which he receives the payment or distribution.

For purposes of clauses (iv) and (v), the term 'eligible retirement plan' has the meaning given such term by clauses (iii), (iv), (v), and (vi) of section 402(c)(8)(B), except that for purposes of clause (iv)(II) of this subparagraph, the term shall also include an eligible deferred compensation plan described in section 457(b) of an eligi-

ble employer described in section 457(e)(1)(B)."

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (1) of section 403(b) is amended by striking "section 408(d)(3)(A)(iii)" and inserting "clause (iii), (iv), or (v) of section 408(d)(3)(A)".

(2) Clause (i) of section 408(d)(3)(D) is amended by striking "or (iii)" and inserting "(iii), (iv), or (v)".

(3) Subparagraph (G) of section 408(d)(3) is amended to read as follows:

"(G) SIMPLE RETIREMENT ACCOUNTS.—In the case of any payment or distribution out of a simple retirement account (as defined in subsection (p)) to which section 72(t)(6) applies, this paragraph shall not apply unless such payment or distribution is paid into another simple retirement account."

(c) EFFECTIVE DATE; SPECIAL RULE.—

(1) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions after December 31, 1998.

(2) SPECIAL RULE.—Notwithstanding any other provision of law, subsections (h)(3) and (h)(5) of section 1122 of the Tax Reform Act of 1986 shall

not apply to any distribution from an eligible retirement plan (as defined in clause (iii) or (iv) of section 402(c)(8)(B) of the Internal Revenue Code of 1986) on behalf of an individual if there was a rollover to such plan on behalf of such individual which is permitted solely by reason of the amendments made by this section.

SEC. 4. FASTER VESTING OF EMPLOYER MATCHING CONTRIBUTIONS.

(a) AMENDMENTS TO 1986 CODE.—Subsection (a) of section 411 (relating to minimum vesting standards) is amended—

(1) in paragraph (2), by striking "A plan" and inserting "Except as provided in paragraph (12), a plan", and

(2) by adding at the end the following:

"(12) FASTER VESTING FOR MATCHING CONTRIBUTIONS.—In the case of matching contributions (as defined in section 401(m)(4)(A)), paragraph (2) shall be applied—

"(A) by substituting '3 years' for '5 years' in subparagraph (A), and

"(B) by substituting the following table for the table contained in subparagraph (B):

"Years of service:	The nonforfeitable percentage is:
2	20

"Years of service:	The nonforfeitable percentage is:
3	40
4	60
5	80
6	100."

(b) AMENDMENTS TO ERISA.—Section 203(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1053(a)) is amended—

(1) in paragraph (2), by striking "A plan" and inserting "Except as provided in paragraph (4), a plan", and

(2) by adding at the end the following:

"(4) FASTER VESTING FOR MATCHING CONTRIBUTIONS.—In the case of matching contributions (as defined in section 401(m)(4)(A) of the Internal Revenue Code of 1986), paragraph (2) shall be applied—

"(A) by substituting '3 years' for '5 years' in subparagraph (A), and

"(B) by substituting the following table for the table contained in subparagraph (B):

"Years of service:	The nonforfeitable percentage is:
2	20
3	40
4	60
5	80
6	100."

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section

shall apply to contributions for plan years beginning after December 31, 1999.

(2) COLLECTIVE BARGAINING AGREEMENTS.—In the case of a plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers ratified by the date of enactment of this Act, the amendments made by this section shall not apply to contributions on behalf of employees covered by any such agreement for plan years beginning before the earlier of—

(A) the later of—

(i) the date on which the last of such collective bargaining agreements terminates (determined without regard to any extension thereof on or after such date of enactment), or

(ii) January 1, 2000, or

(B) January 1, 2004.

(3) PARTICIPATION REQUIRED.—The amendments made by this section shall not apply to any employee who does not have 1 hour of service in any plan year to which the amendments made by this section apply.

SEC. 5. EXTENSION OF MISSING PARTICIPANTS PROGRAM.

(a) IN GENERAL.—Section 4050 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1350) is amended by redesignating subsection (c) as subsection (e) and by inserting after subsection (b) the following new subsections:

"(c) MULTIEMPLOYER PLANS.—The corporation shall prescribe rules similar to the rules in subsection (a) for multiemployer plans covered by this title that terminate under section 4041A.

"(d) PLANS NOT OTHERWISE SUBJECT TO TITLE.—

"(1) TRANSFER TO CORPORATION.—The plan administrator of a plan described in paragraph (4) may elect to transfer a missing participant's benefits to the corporation upon termination of the plan.

"(2) INFORMATION TO THE CORPORATION.—To the extent provided in regulations, the plan administrator of a plan described in paragraph (4) shall, upon termination of the plan, provide the corporation information with respect to benefits of a missing participant if the plan transfers such benefits—

"(A) to the corporation, or

"(B) to an entity other than the corporation or a plan described in paragraph (4)(B)(ii).

"(3) PAYMENT BY THE CORPORATION.—If benefits of a missing participant were transferred to the

corporation under paragraph (1), the corporation shall, upon location of the participant or beneficiary, pay to the participant or beneficiary the amount transferred (or the appropriate survivor benefit) either—

"(A) in a single sum (plus interest), or

"(B) in such other form as is specified in regulations of the corporation.

"(4) PLANS DESCRIBED.—A plan is described in this paragraph if—

"(A) the plan is a pension plan (within the meaning of section 3(2))—

"(i) to which the provisions of this section do not apply (without regard to this subsection), and

"(ii) which is not a plan described in paragraphs (2) through (11) of section 4021(b), and

"(B) at the time the assets are to be distributed upon termination, the plan—

"(i) has missing participants, and

"(ii) has not provided for the transfer of assets to pay the benefits of all missing participants to another pension plan (within the meaning of section 3(2)).

"(5) CERTAIN PROVISIONS NOT TO APPLY.—Subsections (a)(1) and (a)(3) shall not apply to a plan described in paragraph (4).".

(b) CONFORMING AMENDMENT.—Section 206(f) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1056(f)) is amended by striking "the plan shall provide that".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions made after final regulations implementing subsections (c) and (d) of section 4050 of the Employee Retirement Income Security Act of 1974 (as added by subsection (a)), respectively, are prescribed.

SEC. 6. ROLLOVERS OF AFTER-TAX CONTRIBUTIONS.

(a) IN GENERAL.—

(1) Subsection (c) of section 402 (relating to rules applicable to rollovers from exempt trusts) (as amended by section 2) is amended by striking paragraph (2) and redesignating paragraphs (3) through (10) as paragraphs (2) through (9), respectively.

(2) Paragraph (31) of section 401(a) (relating to optional direct transfer of eligible rollover distributions) is amended by striking subparagraph (B) and redesignating subparagraphs (C) and (D) as subparagraphs (B) and (C), respectively.

(3) Subparagraph (B) of section 408(d)(3) (relating to rollover contributions) is amended by striking "which was not includible in his gross income because of the application of this paragraph" and inserting "to which this paragraph applied".

(4) Paragraph (7)(B) of section 402(c) (as redesignated by subsection (a) and as amended by section 2) is amended—

(A) by striking "The term" and inserting "Except as provided in this subparagraph, the term", and

(B) by adding at the end the following: "Arrangements described in clauses (iii), (iv) (v), and (vi) shall not be treated as eligible retirement plans for purposes of receiving a rollover contribution of an eligible rollover distribution to the extent that such eligible rollover distribution is not includible in gross income (determined without regard to paragraph (1))."

(5) Paragraph (2) of section 408(d) is amended—

(A) by striking "For purposes" and inserting the following:

"(A) IN GENERAL.—Except as provided in this paragraph, for purposes",

(B) by striking "(A) all" and inserting "(i) all";

(C) by striking "(B) all" and inserting "(ii) all";

(D) by striking "(C) the" and inserting "(iii) the";

(E) by striking "subparagraph (C)" and inserting "clause (iii)"; and

(F) by inserting at the end the following:

"(B) APPLICATION OF SECTION 72.—For purposes of applying section 72, if—

"(i) a distribution is made from an individual retirement plan, and

"(ii) a rollover contribution described in paragraph (3) is made to an eligible retirement plan described in section 402(c)(7)(B)(iii), (iv), (v), or (vi) with respect to all or part of such distribution,

the includible amount in the individual's individual retirement plans shall be reduced by the amount described in subparagraph (C). As of the close of the calendar year in which the taxable year begins, the reduction of all amounts described in subparagraph (C)(i) shall be applied prior to the computations described in

subparagraph (A)(iii). The amount of any distribution with respect to which there is a rollover contribution described in clause (ii) shall not be treated as a distribution for purposes of subparagraph (A).

"(C) AMOUNT DESCRIBED.—The amount described in this subparagraph is the sum of—

"(i) the amount of the rollover contribution described in subparagraph (B)(ii), and

"(ii) in the case of any portion of the distribution with respect to which there is not a rollover contribution described in paragraph (3), the amount of such portion that is included in gross income under section 72.

"(D) INCLUDIBLE AMOUNT.—For purposes of this paragraph, the term 'includible amount' shall mean the amount that is not investment in the contract (as defined in section 72)."

(6) Subparagraph (C) of section 402(c)(6) is amended by inserting after "other than money" the following: "or where the amount of the distribution exceeds the amount of the rollover contribution".

(7) Clause (ii) of section 408(d)(3)(A) is amended—

(A) by striking "an employee's trust described in section 401(a) which is exempt from tax under section 501(a) or from an annuity plan described in section 403(a)" and inserting "an eligible retirement plan (as defined in section 402(c)(7)(B)(iii) or (iv))", and

(B) by striking "such trust or annuity plan" and inserting "such eligible retirement plan (as defined in section 402(c)(7)(B)(iii) or (iv))".

(8) Clause (iii) of section 408(d)(3)(A) is amended—

(A) by striking "an annuity contract described in section 403(b)" and inserting "an eligible retirement plan (as defined in section 402(c)(7)(B)(vi))", and

(B) by striking "another annuity contract described in section 403(b)" and inserting "another eligible retirement plan (as defined in section 402(c)(7)(B)(vi))".

(b) HARDSHIP EXCEPTION TO 60-DAY RULE.—

(1) Paragraph (2) of section 402(c) (as so redesignated) is amended to read as follows:

"(2) TRANSFER MUST BE MADE WITHIN 60 DAYS OF RECEIPT.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), paragraph (1) shall not apply to any transfer of a distribution made after the 60th day following the day on which the distributee received the property distributed.

"(B) HARDSHIP EXCEPTION.—The Secretary may waive the 60-day requirement under subparagraph (A) where the failure to waive such requirement would be against equity or good conscience, including casualty, disaster, or other events beyond the reasonable control of the individual subject to such requirement."

(2) Paragraph (3) of section 408(d) (relating to rollover contributions) is amended by adding at the end the following new subparagraph:

"(H) WAIVER OF 60-DAY REQUIREMENT.—The Secretary may waive the 60-day requirement under subparagraphs (A) and (D) where the failure to waive such requirement would be against equity or good conscience, including casualty, disaster, or other events beyond the

reasonable control of the individual subject to such requirement."

(c) CONFORMING AMENDMENTS.—

(1) Paragraph (5) of section 402(c) is amended by striking "(8)(B)" and inserting "(7)(B)".

(2) Subparagraph (B) of section 403(a)(4) is amended by striking "(2) through (7)" and inserting "(2) through (6)".

(3) Section 403(b)(8)(A)(ii) (as amended by section 2) is amended by striking "section 402(c)(8)(B)" and inserting "section 402(c)(7)(B)".

(4) Subparagraph (A) of section 408(d)(3) (as amended by section 3) is amended by striking "402(c)(8)" and inserting "402(c)(7)".

(5) Paragraph (16) of section 457(e) (as added by section 301) is amended—

(A) in subparagraph (A)(i) by striking "402(c)(4)" and inserting "402(c)(3)",

(B) in subparagraph (A)(ii) by striking "402(c)(8)(B)" and inserting "402(c)(7)(B)", and

(C) in subparagraph (B) by striking "paragraphs (2) through (7) and (9) of section 402(c)" and inserting "paragraphs (2) through (6) and (8) of section 402(c)".

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided by paragraph (2), the amendments made by this section shall apply to distributions made after December 31, 1998.

(2) HARDSHIP EXCEPTION.—The amendments made by subsection (b) shall apply to 60-day periods ending after the date of the enactment of this Act.

SEC. 7. RATIONALIZATION OF RESTRICTIONS ON DISTRIBUTIONS FROM DEFINED CONTRIBUTION PLANS.

(a) DISTRIBUTIONS PERMITTED ON SEVERANCE FROM EMPLOYMENT.—

(1) 401(k) PLANS.—Section 401(k)(2)(B)(i)(I) (relating to qualified cash or deferred arrangements) is amended by striking "separation from service" and inserting "severance from employment".

(2) 403(b) CONTRACTS.—

(A) Clause (ii) of section 403(b)(7)(A) is amended by striking "separates from service" and inserting "severs from employment".

(B) Paragraph (11) of section 403(b) is amended—

(i) by striking "SEPARATION FROM SERVICE" in the heading and inserting "SEVERANCE FROM EMPLOYMENT", and

(ii) by striking "separates from service" and inserting "severs from employment".

(3) 457 PLANS.—Clause (ii) of section 457(d)(1)(A) is amended by striking "is separated from service" and inserting "has a severance from employment".

(b) BUSINESS SALE REQUIREMENTS DELETED.—

(1) IN GENERAL.—Section 401(k)(2)(B)(i)(II) (relating to qualified cash or deferred arrangements) is amended by striking "an event" and inserting "a plan termination".

(2) CONFORMING AMENDMENTS.—Section 401(k)(10) is amended—

(A) by striking subparagraph (A) and inserting the following:

"(A) IN GENERAL.—A plan termination is described in this paragraph if the termination of the plan does not involve the establishment or maintenance of another defined contribution plan (other than an employee stock ownership plan as defined in section 4975(e)(7)).",

(B) in subparagraph (B)—

(i) by striking "An event" and inserting "A termination", and

(ii) by striking "the event" and inserting "the termination",

(C) by striking subparagraph (C), and

(D) by striking "OR DISPOSITION OF ASSETS OR SUBSIDIARY" in the heading.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions after December 31, 1999.

SEC. 8. TRANSFEREE DEFINED CONTRIBUTION PLAN NEED NOT HAVE SAME DISTRIBUTION OPTIONS AS TRANSFEROR DEFINED CONTRIBUTION PLAN.

(a) IN GENERAL.—Section 411(d)(6) (relating to accrued benefit not to be decreased by amendment) is amended by adding at the end the following new subparagraph:

"(D) PLAN TRANSFERS.—A defined contribution plan (in this subparagraph referred to as the 'transferee plan') shall not be treated as failing to meet the requirements of this paragraph merely because the transferee plan does not provide some or all of the forms of distribu-

tion previously available under another defined contribution plan (in this subparagraph referred to as the 'transferor plan') to the extent that—

"(i) the forms of distribution previously available under the transferor plan applied to the account of a participant or beneficiary under the transferor plan that was transferred from the transferor plan to the transferee plan pursuant to a direct transfer rather than pursuant to a distribution from the transferor plan,

"(ii) the terms of both the transferor plan and the transferee plan authorize the transfer described in clause (i),

"(iii) the transfer described in clause (i) was made pursuant to a voluntary election by the participant or beneficiary whose account was transferred to the transferee plan,

"(iv) the election described in clause (iii) was made after the participant or beneficiary received a notice describing the consequences of making the election,

"(v) if the transferor plan provides for an annuity as the normal form of distribu-

tion under the plan in accordance with section 417, the transfer is made with the consent of the participant's spouse (if any), and such consent meets requirements similar to the requirements imposed by section 417(a)(2), and

"(vi) the transferee plan allows the participant or beneficiary described in clause (iii) to receive any distribution to which the participant or beneficiary is entitled under transferee plan in the form of a single sum distribution.".

(b) CONFORMING AMENDMENT.—Section 204(g) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1054(g)) is amended by adding at the end the following new paragraph:

"(4) A defined contribution plan (in this paragraph referred to as the 'transferee plan') shall not be treated as failing to meet the requirements of this subsection merely because the transferee plan does not provide some or all of the forms of distribution previously available under another defined contribution plan (in this paragraph referred to as the 'transferor plan') to the extent that—

"(A) the forms of distribution previously available under the transferor plan applied to the account of a participant or beneficiary under the transferor plan that was transferred from the transferor plan to the transferee plan pursuant to a direct transfer rather than pursuant to a distribution from the transferor plan,

"(B) the terms of both the transferor plan and the transferee plan authorize the transfer described in subparagraph (A),

"(C) the transfer described in subparagraph (A) was made pursuant to a voluntary election by the participant or beneficiary whose account was transferred to the transferee plan,

"(D) the election described in subparagraph (C) was made after the participant or beneficiary received a notice describing the consequences of making the election,

"(E) if the transferor plan provides for an annuity as the normal form of distribution under the plan in accordance with section 205, the transfer is made with the consent of the participant's spouse (if any), and such consent meets requirements similar to the requirements imposed by section 205(c)(2), and

"(F) the transferee plan allows the participant or beneficiary described in subparagraph (C) to receive any distribution to which the participant or beneficiary is entitled under transferee plan in the form of a single sum distribution.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to transfers after December 31, 1999.

SEC. 9. EMPLOYERS MAY DISREGARD ROLLOVERS FOR PURPOSES OF CASH-OUT AMOUNTS.

(a) AMENDMENTS TO 1986 CODE.—

(1) Section 411(a)(11) (relating to restrictions on certain mandatory distributions) is amended by adding at the end the following:

"(D) SPECIAL RULE FOR ROLLOVER CONTRIBUTIONS.—A plan shall not fail to meet the requirements of this paragraph if, under the terms of the plan, the present value of the nonforfeitable accrued benefit is determined without regard to that portion of such benefit which is attributable to rollover contributions (and earnings allocable thereto). For purposes of this subparagraph, the term 'rollover contributions' means any rollover contribution under sections

402(c), 403(a)(4), 403(b)(8), clause (ii), (iii), or (iv) of 408(d)(3)(A), and 457(e)(16).".

(2) Clause (i) of section 457(e)(9)(A) is amended by striking "such amount" and inserting "the portion of such amount which is not attributable to rollover contributions (as defined in section 411(a)(11)(D))".

(b) AMENDMENT TO ERISA.—Section 203(e) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1053(e)) is amended by adding at the end the following:

"(4) A plan shall not fail to meet the requirements of this subsection if, under the terms of the plan, the present value of the nonforfeitable accrued benefit is determined without regard to that portion of such benefit which is attributable to rollover contributions (and earnings allocable thereto). For purposes of this paragraph, the term 'rollover contributions' means any rollover contribution under sections 402(c), 403(a)(4), 403(b)(8), clause (ii), (iii), or (iv) of 408(d)(3)(A), and 457(e)(16) of the Internal Revenue Code of 1986.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions after December 31, 1999.

SEC. 10. PURCHASE OF SERVICE CREDIT IN GOVERNMENTAL DEFINED BENEFIT PLANS.

(a) 403(b) PLANS.—Subsection (b) of section 403 is amended by adding at the end the following new paragraph:

"(13) TRUSTEE-TO-TRUSTEE TRANSFERS TO PURCHASE PERMISSIVE SERVICE CREDIT.—No amount shall be includible in gross income by reason of a direct trustee-to-trustee transfer to a defined benefit governmental plan (as defined in section 414(d)) if such transfer is—

"(A) for the purchase of permissive service credit (as defined in section 415(n)(3)(A)) under such plan, or

"(B) a repayment to which section 415 does not apply by reason of subsection (k)(3) thereof."

(b) 457 PLANS.—

(1) Subsection (e) of section 457 is amended by adding at the end the following new paragraph:

"(17) TRUSTEE-TO-TRUSTEE TRANSFERS TO PURCHASE PERMISSIVE SERVICE CREDIT.—No amount shall be includible in gross income by reason of a direct trustee-to-trustee transfer to a defined benefit governmental plan (as defined in section 414(d)) if such transfer is—

"(A) for the purchase of permissive service credit (as defined in section 415(n)(3)(A)) under such plan, or

"(B) a repayment to which section 415 does not apply by reason of subsection (k)(3) thereof."

(2) Section 457(b)(2), as amended by section 2, is amended by striking "(other than rollover amounts)" and inserting "(other than rollover amounts and amounts received in a transfer referred to in subsection (e)(17))".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to trustee-to-trustee transfers after December 31, 1999.

SEC. 11. PROVISIONS RELATING TO PLAN AMENDMENTS.

(a) IN GENERAL.—If this section applies to any plan or contract amendment—

(1) such plan or contract shall be treated as being operated in accordance with the terms of the plan during the period described in subsection (b)(2)(A), and

(2) such plan shall not fail to meet the requirements of section 411(d)(6) of the Internal Revenue Code of 1986 or section 204(g) of the Employee Re-

tirement Income Security Act of 1974 by reason of such amendment.

(b) AMENDMENTS TO WHICH SECTION APPLIES.—

(1) IN GENERAL.—This section shall apply to any amendment to any plan or annuity contract which is made—

(A) pursuant to any amendment made by this Act or pursuant to any guidance issued by the Secretary of the Treasury (or the Secretary's delegate) under any such amendment, and

(B) on or before the last day of the first plan year beginning on or after January 1, 2002.

In the case of a governmental plan (as defined in section 414(d) of the Internal Revenue Code of 1986), this paragraph shall be applied by substituting "2004" for "2002".

(2) CONDITIONS.—This section shall not apply to any amendment unless—

(A) during the period—

(i) beginning on the date the legislative amendment or guidance described in paragraph (1)(A) takes effect (or in the case of a plan or contract amendment not

required by such legislative amendment or guidance, the effective date specified by the plan), and

(ii) ending on the date described in paragraph (1)(B) (or, if earlier, the date the plan or contract amendment is adopted),

the plan or contract is operated as if such plan or contract amendment were in effect, and

(B) such plan or contract amendment applies retroactively for such period.

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